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ABSTRACT

Testimony and proceedings of a hearing on the School District Consolidation Amendments of 1985 are presented in this document. The proposed bill would restrict the ability of Federal district courts to order remedies involving the consolidation of school districts in school desegregation cases. The following are included: (1) a statement in support of the bill by Representative Tommy F. Robinson, who argues against the intrusion of courts into local authorities' attempts to formulate their own desegregation policies; (2) a statement by Debbie Shamlin, chairperson of Parents Against Consolidation in Little Rock, Arkansas; (3) testimony from representatives of the North Little Rock Parent Teacher Association; and (4) a paper by Professor Herbert J. Walberg entitled "Threats of Metropolitan Consolidation to Educational Quality," which presents an overview of research on the harmfulness of consolidation and a consideration of beneficial alternatives. (KH)

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7-23-87

SCHOOL DISTRICT CONSOLIDATIONS AMENDMENTS OF 1985

ED285933

HEARING

BEFORE THE

SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES, AND THE ADMINISTRATION OF JUSTICE

OF THE

COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

FIRST SESSION

ON

H.R. 527

SCHOOL DISTRICT CONSOLIDATIONS AMENDMENTS OF 1985

JULY 25, 1985

Serial No. 107

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SCHOOL DISTRICT CONSOLIDATION AMENDMENTS OF 1985

THURSDAY, JULY 25, 1985

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES
AND THE ADMINISTRATION OF JUSTICE,
COMMITTEE ON THE JUDICIARY
Washington, DC.

The subcommittee met, pursuant to call, at 9:30 a.m., in room 2226, Rayburn House Office Building, Hon. Robert W. Kastenmeier [chairman of the subcommittee] presiding.

Present: Representatives Kastenmeier, Synar, Schroeder, Morrison, Moorhead, Hyde, Kindness, Swindall, and Coble.

Staff present: Michael J. Remington, chief counsel; Deborah Leavy, counsel; Joseph V. Wolfe, associate counsel; and Audrey Marcus, clerk.

Mr. KASTENMEIER. The subcommittee will come to order.

Without objection, consent is granted that the subcommittee permit the meeting this morning to be covered in whole or in part by television broadcast, radio broadcast, and/or still photography, pursuant to rule 5 of the committee rules.

We commence this morning with the bill H.R. 527, the School District Consolidations Amendments of 1985. Following this bill, we will take up another matter at 10 o'clock on a different subject, H.R. 3004. The bill we are dealing with at the moment would restrict the ability of the Federal district courts to order certain remedies, namely those involving the consolidation of school districts in school desegregation cases.

Similar bills have been considered—I say similar, not identical—and have been the subject of extensive hearings in previous Congresses, most notably in the 97th Congress, such as limitations on court-ordered busing and the Neighborhood School Act. We return, however, to the issue today. We would like to start this morning with one of our distinguished colleagues and sponsor of H.R. 527. He is the Honorable Tommy F. Robinson, our colleague from the State of Arkansas. He has had a long career of service in Arkansas, principally as a law enforcement officer and a State director of public safety.

We are very pleased to have Congressman Robinson. You may proceed as you wish. We do have your short statement here, which can be accepted and made part of the record. You may proceed as you wish.

[The prepared statement of Congressman Kastenmeier follows:]

(1)

OPENING STATEMENT

We begin this morning with the bill H.R. 527, the School District Consolidations Amendments of 1985. This bill would restrict the ability of federal district courts to order certin remedies, namely those involving the consolidation of school districts, in school desegregation cases. Similar bills have been considered and have been the subject of extensive hearings by this Subcommittee in previous Congresses, most notably the 97th Congress.

We return to the issue today with a serious purpose. In our constitutional form of government, the relationship of the three branches, each to the others, requires a delicate balance. As Members of Congress, sworn to uphold and defend the Constitution, it is our duty to give our closest scrutiny to legislation that might shift that balance.

We bgain that task this morning with a respected witness, the sponsor of H.R. 527, our distinguished colleague from Arkansas, the Honorable Tommy F. Robinson. Congressman Robinson has had a long career of service in Arkansas, serving most recently as county sheriff, and prior to that as State Director of Public Safety. He has served as a state and city police officer, city police chief and in the U.S. Marshal Service. A product of Arkansas public schools and the University of Little Rock, he was elected by the people of the Second District to represent them in the 99th Congress.

STATEMENT OF HON. TOMMY F. ROBINSON, A U.S. REPRESENTATIVE FROM THE STATE OF ARKANSAS

Mr. ROBINSON. Thank you, Mr. Chairman. First I would like to personally thank you and the members of the committee for allowing me this opportunity to present testimony in reference to my bill, H.R. 527.

I would like to have unanimous consent to revise and extend my remarks and to follow the procedures of this committee in submitting additional testimony at a later point in time.

Mr. KASTENMEIER. Without objection, your additional statements may also be received and made part of the record.

Mr. ROBINSON. Mr. Chairman and members of the committee, I have submitted for your overview a brief statement and also a complete analysis of what the School District Consolidation Amendments of 1985 do.

I stayed up last night trying to condense into a 5-minute presentation pursuant to the rules my thesis why this bill is needed. If you would allow me, Mr. Chairman, I would like to as quickly as possible go through the basic premise. That premise is our court system is not adequate protection against improper consolidation.

Let me state at the outset that this is not an antibusing bill. This is not a court-stripping bill. This bill simply states before one orders the most drastic remedy in school cases, school consolidation, they must exhaust all other remedies. If those remedies have been exhausted, then of course the courts have a right to do that.

There are a couple of political and social policies that we need to be aware of, not the least of which is the ultimate cost that many school districts throughout this country, whether it's in St. Louis, Kansas City, Seattle, Boston, or Little Rock, is costing our educational institutions in this country. For example, in St. Louis, MO, consolidation has been in litigation for over 10 years and has resulted in at least seven appeals to the Eighth Circuit Court. Finally, after all those appeals, consolidation was not ordered. A voluntary exchange of students was ultimately ordered by the court.

In Pulaski County, AR, which is Little Rock, AR, the three school districts have already expended in excess of $2.5 million on

legal fees. While Arkansas has great wealth in its people, it is not wealthy in the typical economic sense. This loss of money, particularly for the North Little Rock school district and the Pulaski County school district, which are not as wealthy as Little Rock, has worked an extreme hardship. At a time when our Nation faces a true crisis in education, when illiteracy is on the rise and mastery of basic skills is decreasing, it is catastrophic that resources of this magnitude should go to lawyers and not to the learning process.

Yet, anyone can file a lawsuit, no matter how unlikely the chances of success. Unfortunately, while our legal system grinds fine and justice usually prevails, it also grinds slowly and only at great expense.

The issue of school consolidation involves conflict between several areas of public policy. The compelling need to desegregate our schools is certainly one of those areas. Another is local control over and autonomy of local school districts, which even the Supreme Court recognized in *Milliken* versus *Bradley*. A third is the critical need to improve the educational achievement of our Nation's youth before we fall so far behind other countries that our position as the economic and military leader of this free world is jeopardized.

Still another public policy is the importance of established political boundaries and the right to elect representatives of one's choosing.

I could go on and on about the social policies, but I am going to respect the rules and just basically I will submit this lengthy document that I have developed around the thesis that I am setting. I would like to sort of get to the bottom line. That's an Arkansas term. I know several members want to ask me questions.

What has basically happened in Pulaski County, AR, Little Rock, is that a Federal judge has decided that instead of pursuing other remedies—and let me preface my remarks by stating that Little Rock is not the Little Rock of the 1957 integration crisis. We have no segregated schools. Our schools have been integrated and under Federal court orders for over 15 years. However, recently a plaintiff filed a lawsuit because the plaintiff did not like the way people have moved in and about the city of Little Rock and the racial mix of several schools. They filed a lawsuit instead of pursuing other remedies available to the court. One such remedy would have been a voluntary exchange of students and/or correcting some of the jurisdictional boundaries that were caused because of annexation. The judge arbitrarily, with one stroke of the pen, consolidated three fine school districts and is in the process of trying to create some super school board to, in his opinion, correct the racial imbalance problem that we have in our district.

That is simply wrong. I know each of you will read all the substantive material that not only I submitted today but that I will submit in the future and testimony from other experts. But the basic bottom line is we have responsibility in this Congress, in my opinion, when the Federal courts overstep their authority, in my opinion, and not try to exhaust other remedies in reference to such a hot topic as school consolidation, to draw in their reins—and that is what I am attempting to do in this bill. It is not to stop consolidation. It is not to stop busing. You can bus all you want to. They can wear the tires off the buses if they want to in Little Rock. But

we don't want our schools consolidated. And there's no need to consolidate those schools. What I am asking for is some guidelines to be passed by this Congress that will demonstrate to the Federal courts that we have a responsibility over some of the changes that they are trying to implement in our society.

My bill would just simply state that, before you consolidate schools, you must exhaust all other remedies available to you. Throughout this country they are not doing that. They can no longer find segregated schools to make their mark on history, so they are now trying to go into cities and decide because people choose to live in one area versus the other area, that they want to now make their mark on history and consolidate schools. That is not good for our educational system, and that is the purpose of this bill.

I want to assure each of you and, Mr. Chairman, you, I certainly am not a racist. I understand that there is no way in our society that we can have segregated schools. This is not an antibusing bill.

I would ask for your due consideration and review of all the analyses that I have submitted for the record, including my opening statement and the expert testimony that I will present.

At this time I am going to respect the 5-minute rule that I am operating under and yield back the balance of my time and open the forum up for questions.

[Statement of Tommy Robinson follows:]

STATEMENT OF THE HONORABLE TOMMY F. ROBINSON
BEFORE THE SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES
AND THE ADMINISTRATION OF JUSTICE
ON H.R. 527 -- JULY 25, 1985

Mr. Chairman, I want to extend my personal thanks to you for the opportunity to appear before this distinguished body today. I appreciate and acknowledge the speed with which this hearing was granted. This just proves that the wheels of justice do not always grind slowly.

St. Louis, Boston, Seattle -- what do these cities have in common? They have all been under federal court-orders to achieve desegregation of their public schools through court-approved desegregation plans.

Little Rock, Arkansas -- which lies at the heart of the Second Congressional District, which I represent -- also has been subject to court-approved desegregation plans for more than 15 years as well as large-scale cross-town busing. However, in spite of Little Rock's compliance with the federal court plans, a federal district court ordered the consolidation of three school districts in the Little Rock area. While this specific case is still in the appeals process, I felt it appropriate to initiate a legislative remedy (H.R. 527, the School Districts Consolidation Act Amendments of 1985) to ensure that this battle need not be fought again in other cities.

Local control of education is a source of pride in every American city, large and small. As long as constitutional guarantees to an integrated education are met, maintaining that local control should be paramount. Therefore, I introduced H.R. 527 on January 7, 1985. This bill limits the authority of the courts to order consolidation of two or more existing school districts until all other appropriate avenues of relief (which would include busing, if appropriate) have been exhausted.

The right to an integrated education available to all citizens is fundamental and I support it totally. But that right does not justify the dissolution of independent school districts unless every other means of ensuring that fundamental right have been tried and proved unsuccessful.

Federal judges are now making law. Federal courts have usurped their authority by overstepping the powers granted to them by Congress. In the Constitution, Congress is clearly given the right to define the areas federal courts might review. It also gave Congress the power to set guidelines for these courts in those matters it allows the courts to review.

My bill addresses one of the areas in which the courts have overstepped their authority and offers a solution to this problem without violating any constitutional rights to a fair judicial system. I urge your favorable consideration of this legislation. The American people deserve the least possible interference in their lives. H.R. 527 is a rational step in that direction without deserting our constitutional guarantee of equal opportunity for all citizens.

Mr. Chairman, distinguished members of the Subcommittee, again I appreciate your time and attention. I stand ready to answer any questions you may have at this time.

Mr. KASTENMEIER. We thank our colleague for his brief presentation. We will look forward to receiving any additional submissions he has on the subject.

I just have one or two questions. Bills not precisely the same but similar to yours have been considered by the committee in years past and have been the subject of extensive commentary, law reviews, allusions in court decisions, in the Supreme Court, in newspaper editorials, and elsewhere. I would say perhaps the majority but, of course, by no means obviously all those who have considered it, have been somewhat divided on the issue, but many have concluded that bills such as this are unconstitutional in that the Congress cannot restrict Federal courts in their authority to remedy a violation of constitutional rights, impinging on constitutional rights.

Doubtless, you have reached a different conclusion. Can you tell us why you think your bill is constitutional?

Mr. ROBINSON. Yes, sir: I can, because article 3 section 1 of the Constitution gives Congress the right to limit what the Federal district courts can review. To start with, our constitutional baseline to work from, the Constitution in this case is on my side. We do have the authority to limit what they can review.

The basic problem—and I hate to keep going back to this, because, when one introduces a bill of this nature, immediately the red flag goes up in Congress. First, I had to overcome being from Little Rock, AR, that great city in 1957 that reached every newspaper in the world. But we have fine school districts today.

The problem we have in our judiciary system, in my opinion, starting with article 3, section 1, which gives some sound legal argument to my bill, and keeping in mind that you can bus all you want to. You can do whatever you want to, but you can't consolidate the schools until and unless you have exhausted other remedies. We have a problem in our judiciary today that I think all of us need to address. It appears to me, my interpretation of the Constitution is that the Constitution was drafted for the majority viewpoint as well as the minority. But what I have seen evolve over the past several years is that we uphold the minority viewpoint to the detriment of the majority viewpoint.

But to simply answer your question, In my opinion I have the Constitution on my side. Unlike other bills that have been introduced, my bill does not try to restrict or limit the ultimate remedy of consolidating schools. It does not stop busing. You can bus all you want to. You can wear the tires off the buses if you want to. But you can't go in and take away the local autonomy of the schools if there are other remedies available.

I just feel like I will be able to make a sound argument that the majority viewpoint, it's time in this country that we start thinking about the majority. The majority viewpoint in Pulaski County, AR is that we are sick and tired of the Federal courts trying to delve themselves into our educational process when other remedies are available. So, I will use the Constitution for an argument on behalf of H.R. 527. I can assure you that, when you read the analysis of my bill, you will see it's not just a bill that has been introduced for political expediency. I have put a lot of thought into it knowing the pitfalls and the hard uphill battle that I would have on my hands.

That is the reason I think my bill is better than the rest of the bills.

Mr. KASTENMEIER. In what other areas do you think the courts ought to be restricted either in their jurisdiction or their ability to order remedies to correct violations of constitutional rights?

Mr. ROBINSON. Mr. Kastenmeier, it's no secret I am a very conservative Member of Congress. I have my own viewpoint about the Federal courts. It's no secret, I don't necessarily like the Federal courts. I would respectfully request that I be allowed to limit my response today to school consolidation because, if I get off on a tirade over abortion and gun control, I am afraid it would take the spotlight off of what I am trying to get done today.

I have worked very hard to respect this committee and the rights of all parties involved and the Constitution. I think I have a good constitutional argument to pursue. With all due respect, I would rather limit my discussion to this particular bill.

Mr. KASTENMEIER. Yes. I respect your wishes in that regard.

The question, however, is asked in the sense that if we commence limiting remedies, we are trying to establish the scope of what it is we are looking at. Would this not be an analog for several issues you mentioned——

Mr. ROBINSON. No, sir. I think this may be a benefit to us.

I hate to bring this up——

Mr. HYDE. Mr. Robinson, would the gentleman yield just for a comment on your question?

Mr. ROBINSON. Well, the chairman is——

Mr. HYDE. I just think you are indicating this would be kind of opening the door to a lot of other changes in the jurisdiction——

Mr. KASTENMEIER. The gentleman is entitled to infer what he wishes.

Mr. HYDE. I would just refer us all to the Norris-LaGuardia Act of several years ago, which did this very thing and which is hallowed among the legal profession as limiting the jurisdiction of the courts to use injunctions in labor disputes. That is a sacred act in the law. Certainly any suggestion that Mr. Robinson is making is in the tradition of limiting the jurisdiction of—

Mr. KASTENMEIER. I think Mr. Robinson can speak for himself.

Mr. HYDE. I apologize then for my——

Mr. ROBINSON. Mr. Kastenmeier, I never thought I would be here today telling you that I really respect the Constitution, I do. But let me share with you, in my opinion, what is happening in this country.

As you are well aware, we are two States away from a constitutional convention. I am just going to tell you the truth. In my part of the country, Federal judges are not respected. They are not respected and we are losing respect as far as the law because of their arbitrary and capricious rulings. Mainly, when you start delving into a local school, it's not segregation. It's almost like, well, a group or class of people that moved over to this section of town, so, you know, we don't like how many blacks or how many whites are living here in this neighborhood. So, let's just get buses and let's take them anywhere you want to. Now they're going beyond county boundaries.

My point is we are beyond the segregation days of 1957. I for one as a Member of Congress feel I have a responsibility not only to my constituents but to the Constitution. When the Federal courts get out of line, it's our job under article 3, section 1 to bring them back in line, at least set some guidelines.

I think a constitutional amendment will be forthcoming on abortion and school prayer and all that. And I am not dealing with those areas. I will tell you the truth. If I have an opportunity to vote for a constitutional amendment for a moment of silent prayer in the school, I am going to be one of those leading the fight on the floor. I want there to be no mistake.

In this case I think I have got some sound legal arguments. I think the court is wrong. I think when the court is wrong and they don't realize that we have a responsibility—in my opinion, we are being remiss when we allow the courts just to delve into every area of one's life today. I just think we have a responsibility to set some basic guidelines. I am not interferring with what the courts do. I know I can't do that. And this bill has no intent to do that. I am just saying in this bill for all judges, before you order such a drastic remedy as consolidating schools, you must exhaust other remedies available to you. And there are many other remedies available. And there were many other remedies available in Little Rock other than complete consolidation.

I respect the chairman. I hope that you respect my viewpoint because I do have respect for you, not that I agree with you on every issue but I respect you as the chairman of this committee.

Mr. KASTENMEIER. The gentleman from California.

Mr. MOORHEAD. Other than the example that was told us by Congressman Hyde, could you cite any other examples where Congress has in the past forbid or restricted the courts and ordered particular remedies?

Mr. ROBINSON. Yes. In the analysis of the bill and forthcoming, I will present the legalistic arguments. It will be a very lengthy substantive document. It was my understanding this morning my time was limited. That will be submitted for the record. I will have cases, legal precedence for your consideration. That will be submitted to you, sir, for your consideration.

Mr. MOORHEAD. One of your major points is that the right of a local government or a local city to have their own school board and to direct themselves and not being thrown into the control of a large city where they have no voice at all is a major right that is separate from the segregation issue. But that right shouldn't be swallowed up by the other one, where there are other remedies that might be available.

Is that what your thinking is?

Mr. ROBINSON. The basic bottom-line premise is that here we have a Federal court operating arbitrarily that decided, instead of pursuing other remedies, they would just order consolidation. This court even went so far as to approve what school board would be appointed for the new district.

It is very complicated. You know. We don't deal in politics per se when we are dealing with cases. But I will just tell you the bottom line in this case what happened. This particular Federal judge was on the opposite political side of the fence with Governor Faubus

during 1957. He got a bur in his saddle and just decided that, by golly, he was going to do this to make his mark on history.

I just don't like to delve into the politics of it other than to say that I personally feel, unlike all other bills that have been referred to this committee, that I have put a lot of work, a lot of very careful thought into this bill, not trying to restrict the Federal courts from doing their job, because I respect the Federal judiciary. I was part of the U.S. Marshals Service. I laid my life on the line a couple of times in enforcing Federal court orders. I understand the importance of having a Constitution and the Federal judiciary. But I also understand the importance of the citizens of this country being able to have a say in the daily activities of their lives.

Also let me say this, and this will be presented for the record. The Department of Justice has intervened on the behalf of the defendants, in other words, my side in this case. And they are saying it's wrong. So, it's not just Tommy Robinson, a boll weevil from Little Rock, AR. My own Department of Justice has said, what you have done we don't agree with. And they have intervened as far as an amicus curiae brief. They have argued orally in front of the Eighth Circuit.

This is a new area of law, consolidation of schools. It has nothing to do with segregation. We are beyond those days, and thank God we are. We've got fine integrated schools in my community. But the racial balance, because people have chosen to live in certain areas, is not what the Federal court arbitrarily decided it should be. We are saying, well, if you want more of one minority in a school, let's have a voluntary exchange. Let's take one or two schools within one jurisdiction, not penalize school districts that are obeying the law just to consolidate for the purpose of one school district.

It is very unique in that I am part of the North Little Rock, AR. school system. My wife is a graduate of Central High School in Little Rock, where the original integration crisis occurred. My children are in the other school district, the Pulaski County special school district, that is being consolidated. And there is no reason to do this. But the only remedy we have available to us right now, we the citizens, in my opinion, is a law that will set guidelines for the Federal court, not just in Little Rock but throughout this country that tells them unequivocally: before you order such a drastic remedy, you must try these other remedies, or other remedies. Then, if they don't work, consolidate. I know that I can never prevent that from happening if there is a per se case of segregation. But that is the true thought behind this.

I worked very hard on this. I think when you read the analysis and the legal arguments—and I have several experts that I will submit written testimony from over the next 30 days. I think, and I would plead with the members of this committee, don't raise the red flag just because of the nature of this bill. I think when you give it thought you will find that I was very careful in trying to protect the rights of all individuals, especially the constitutional rights of all of us.

Mr. MOORHEAD. There are people that oppose virtually anything that you can do to desegregate schools. I wonder, you are selecting one of the methods that are used as opposed to school busing and

many other things. Can you tell us why you feel that this particular method is so much more onerous than, say, school busing might be where they were busing into far areas or other programs that might be adopted?

Mr. ROBINSON. First of all, all three of our school districts have been under massive busing orders. We bused and it's widely accepted. Now, we have accepted the court decrees. We have tried to run good schools. The basic point is that I felt in my legislation, if I tried to restrict busing, for example, or if I tried to restrict other avenues that have been debated so hotly before this Congress, that I wouldn't get to first base. That is why I limited to just setting guidelines for the Federal court in reference to consolidation. I did not want to get into the busing issue, even though I will tell you, I don't like busing but I accept it. If I had my rathers, we wouldn't have busing, but I don't have my rathers.

Mr. MOORHEAD. Thank you very much.

Mr. ROBINSON. Thank you.

Mr. KASTENMEIER. The gentlewoman from Colorado.

Mrs. SCHROEDER. Thank you, Mr. Chairman.

I certainly want to thank the gentleman from Arkansas. I think he has come in and not engaged in a lot of high-powered emotional rhetoric. I think he is trying to present his case, and I commend him on that.

I just want to say that I am sitting here with pains of agony because my story was my husband and I were plaintiffs in a busing suit in Denver, where the court found de jure segregation. The board literally was changing the boundaries to keep the school one way or another. Obviously, that was highly charged. When I first came to Congress, Andy Young and many other young Members such as myself sat down and tried to do a bill as you have done. What we were saying is, if the Federal courts or if the courts find that a will is not valid, they don't sit down and rewrite the will. I mean, you are forcing the courts to do something, a remedy, that they don't do in other things. They either say the will's valid or not valid, but they don't write you a new one that they think would be great.

So, that's part of what I think you are talking about. We are forcing them to either bus or consolidate or change boundaries, and that's what so painful about it.

We have put together a bill where we try to put a carrot in front of local school districts to do their job rather than force the courts to do their job which they didn't have the tools to do. We got beat up on both sides, too, so I sympathize with the gentleman from Arkansas. I remember we introduced our bill. We thought we had done the right thing. You know, let us do everything we can to put sweetener and carrots out there for the school boards to try and figure out how they do this, with magnet schools or whatever else, because they have the tools. They know the teachers. They know the system. And they are better equipped to do it than the courts.

Of course, as you were, everybody gets very suspicious, and we got both sides dumping on us; and it didn't go anywhere. So, I hear what you are saying. I understand the trauma that you have gone through because we certainly went through it, too.

I commend you for the low-key nonemotional way that you are approaching it.

Mr. ROBINSON. I thank my distinguished colleague that I have the pleasure of serving with on the Armed Services Committee.

You know, I couldn't sleep last night, Mr. Chairman, coming before this group, the Judiciary, is like throwing Daniel to the lion's den. We have great fears about being, you know, kicked out of the room or whatever. And I know it's not true.

But to add to what she has said, I have worked very hard on this bill. I want to respect the way our Congress operates. You will find me to be a hard-working member. But what I am saying is, if we don't take action now to start addressing some of these areas in reference to our schools, if we have a constitutional convention, I think we are all in trouble. And I think we are close to that. I am telling you, my folks are about ready to rebel. And they're good people in Arkansas. We just want to be left alone. We are tired of the Federal courts just jumping on us every day when we are doing the right thing. We don't have segregated schools. We have accepted busing. We have accepted magnet schools. We will do anything within reason to create a better racial balance.

The point is, how far do we go? We can't control where people move. What I am worried about is, we are seeing private schools springing up on every street corner because of these rulings. That's not helping the educational process in this country. And I believe in the public schools. I mean, I am tempted up here to put my child in the fifth grade in a private school, but I'm not going to because I respect the public schools. But it's getting to the point where they are forcing me and others out of our public schools. When that happens, the system suffers.

I think Congress has a responsibility to make sure that we don't impede the pursuit of our school administrators in trying to teach our young people.

Mr. KASTENMEIER. The gentleman from Ohio.

Mr. KINDNESS. Thank you, Mr. Chairman.

I apologize for being tardy in getting here this morning. I think I ought to defer to the gentleman on my left.

Mr. KASTENMEIER. The gentleman from Illinois, Mr. Hyde.

Mr. HYDE. Thank you.

I would like to comment on Mr. Robinson's initiative here. Constitutionally I think his position is unassailable. The Constitution provides for the limitation of the jurisdiction of the Federal courts by Congress. The policy question is another matter. It is fascinating, however, to note by way of historical background at the turn of the century the Federal courts were not favored by the more progressive intellectual elements in this country because they were perceived to be the hand maiden of the economic royalists and the bloated bondholders and the malefactors of great wealth. But now that the courts are in the vanguard of the liberal thought and movement of the country, they are indeed a favored institution. And anyone that suggests limiting their jurisdiction is viewed with some skepticism as somehow suggesting something wildly unconstitutional.

I do suggest the history of the Norris-LaGuardia Act, which limited the Federal courts' use of injunctions in labor disputes, is a

preferred statute among liberal thinkers. It all depends, I guess, on whose ox is gored.

I would say that the gentleman is being eminently respective of the Constitution in bringing this bill forward.

The policy again is another matter. I am sympathetic with Mr. Robinson's expression of policy. I don't like the Federal courts' micromanaging—to use an appalling word—school districts. It seems to me the notion of exhausting internal remedies before you go to the decapitation to the major remedy is a solid legal principle and one that we on this committee ought to be deferential to. You're not asking that the court be forbidden to consolidate the school districts. You are just saying, try something less drastic before you reach that point.

That seems to me to be good policy.

I do agree that the Federal courts are the one—we are not coequal. They are supreme. They are unelected. They are appointed. Therefore, they are the least responsive branch of Government. And there is no check or balance on their decrees unless once in a while Congress asserts its constitutional prerogative and right to limit their jurisdiction. But if we don't do that or if we deny the propriety of that approach, we are indeed saying we have an imperial judiciary. And there is no appeal. There is no check or balance on what they do, however wise or unwise.

So, I suggest that the gentleman is pursuing an eminently constitutional and, I would say, eminently wise train of activity. I wish him well.

Thank you.

Mr. ROBINSON. I thank the gentleman for his comments.

Mr. KASTENMEIER. Has the gentleman concluded?

Mr. HYDE. Yes.

Mr. KASTENMEIER. The gentleman from Connecticut.

Mr. MORRISON. Thank you, Mr. Chairman.

I want to apologize for being late as well. I appreciate the opportunity to hear from the gentleman from Arkansas, who I have come to know quite well in his new service here in the Congress and who I think is a diligent Member. I know he brings this matter before us as part of that kind of diligent service to his constituents.

I think there are questions about whether this legislation is the answer to the problem and whether it doesn't have constitutional problems and others. I don't think the gentleman has engaged in Federal court bashing, and I don't think we ought to use it as an occasion to do so.

I think the gentleman is speaking on behalf of people who are frustrated about a very difficult social problem that we have in this country, the rooting out of the vestiges of racial discrimination. In finding remedies, whether it be in the area of schools or housing or otherwise, I think the people of the country are frustrated with the difficulty of doing so.

I think it is the responsibility of this committee to look at whatever is proposed and make sure we strike the proper balances so that the courts are not overly intrusive but that they continue to protect the individual rights of our citizens. And that doesn't always please the people on the losing side of whatever controversy is before the courts.

I really have no particular questions for the gentleman, but I hope that this will not be the last time that he brings a matter to the Judiciary Committee. It is really not a frightening place, as the gentleman has found out this morning. I think it is a committee that has a difficult charge because many of the most charged issues that come to the Congress come before this committee. As a result of that, sometimes it seems as if we can't make progress. But I think it is the issues that are intractable and not the committee.

I thank the gentleman.

Mr. ROBINSON. Thank you, Mr. Morrison.

Mr. KASTENMEIER. The gentleman from Georgia, Mr. Swindall.

Mr. SWINDALL. I, too, just want to commend the Congressman for his legislation. It is a problem that in my district of Atlanta we have had a significant amount of difficulty with a program called M-to-M Transfer, majority-to-minority. I could very well see how without this legislation we may very well find ourselves in the same dilemma. So, I applaud you for your well-thought-out legislation. I, for one, will be very supportive of it.

Just by way of a slight footnote, I am disappointed the gentlewoman from Colorado is not here, but I have got to mention the doctrine that originated in Georgia, where the courts did in fact rewrite a will, with reference to a park in Macon, GA.

With that, I will yield back the balance of my time.

Mr. ROBINSON. Thank you.

Mr. KASTENMEIER. The gentleman from North Carolina, Mr. Coble.

Mr. COBLE. Thank you, Mr. Chairman. I will be brief.

I would like to make a comment or two, if I may, and express thanks to our colleague from Arkansas for having appeared. Mr. Robinson, I am reading from your statement of last January, where you indicate that an act was done even though 70 percent of both the black and white parents of each district opposed it.

Mr. ROBINSON. That's right.

Mr. COBLE. That was the act of consolidation. Is that what they opposed?

Mr. ROBINSON. That is correct. There is no majority consensus among blacks or whites for consolidation. That was done by a polling firm in Little Rock, AR. It was roughly 70 percent of the folks opposed it.

Mr. COBLE. Just a word or two, Mr. Chairman. Our colleague from Connecticut, I may have misunderstood him, but I think he said that Mr. Robinson was on a Federal bash or a bash of the Federal courts and this might——

Mr. MORRISON. If the gentleman would yield—

Mr. COBLE. Yes, sir.

Mr. MORRISON [continuing]. I did not make—in fact, I said quite the contrary.

Mr. COBLE. All right, if you would tell me what you said.

Mr. MORRISON. I said I didn't think we should use this as an occasion for Federal court bashing. Quite frankly, I was responding to the comments of the gentleman from Illinois, who, I think, did a little of that and does from time to time. I am sorry to say it when he is not here, but since I was asked the question, I think I do have to say that.

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Mr. COBLE. I thank the gentleman for explaining that.

It is my belief that this might well be the appropriate forum to do that, to exchange and dialog. I am not in disagreement with Mr. Robinson, Mr. Chairman, in that my regard of the Federal judiciary sometimes bothers me. Now, I am blessed in my district with two Federal judges, one Republican and one Democrat. I would put them up against anybody. We have two others before whom I have not appeared.

But I am concerned about some of these Federal judges who are elevated to the lofty perch of the Federal bench. As my learned brother from Illinois just said, they are not elected. They are not, therefore, accountable to constituents. And I am concerned about it. I think we might consider this as the forum from which to be heard about that.

I don't disagree with you, Mr. Robinson. I wish you well in your pursuit here.

I don't think, Mr. Chairman, it's a matter of black versus white. That's not where I am coming from.

I am very happy to have you here.

Thank you, Mr. Chairman, for permitting me to express my views.

Mr. ROBINSON. Mr. Chairman, I thank you, too. I know you were very gracious of your time. We went over the allotted time.

I would just like to close by stating that I will submit for the record expert testimony plus testimony of local officials, plus the legalistic arguments for my bill that I will present within the framework of the parameters that you have set by your rules here.

I would just like to say thank you for listening to me this morning.

Mr. KASTENMEIER. Thank you, Congressman Robinson. We appreciate your appearance this morning. We will look forward to receiving your additional materials when you submit them to the committee.

Mr. KASTENMEIER. This concludes the hearing on the bill H.R. 527 this morning. The committee will recess for just a minute and then we will proceed with another bill.

[Whereupon, at 10:10 a.m., the subcommittee was adjourned, subject to the call of the chair.]

APPENDIX

Letter from Bobby G. Lester to Hon. Robert W. Kastenmeier, dated October 23, 1985.

Letter from Charles Stratton to Hon. Robert W. Kastenmeier, dated October 23, 1985.

Statement of Mrs. Debbie Shamlin, dated October 22, 1985.

Testimony of Carol Lazenby and Madeline Johnson on HR 527.

Testimony of Gayle Wing on HR 527.

Paper by Professor Herbert J. Walberg, University of Illinois at Chicago on Threats of Metropolitan Consolidation to Educational Quality.

OCT 23 1985

October 23, 1985

Courts, Civil Liberties and Administration
of Justice Subcommittee
House Committee on the Judiciary
United States House of Representatives
Washington, D.C.

Dear Mr. Chairman:

I am writing to express my view, as Superintendent of the Pulaski County Special School District, that consolidation of the three school districts in Pulaski County, Arkansas, as was ordered by the United States District Court on November 13, 1985, would be detrimental to public education in our area.

As an administrator, I know that the reorganization and merger of large, long-established school districts cannot be easily accomplished. The curricula of the three districts would have to be revised and made uniform throughout the consolidated district. Curriculum revision, even when limited to one particular discipline at only one grade level, requires hours of planning, meetings, study and in-service training. Comprehensive revisions across all grade levels and subject areas would be a truly massive undertaking.

The reassignment of instructional staff and the reformulation of the respective policies of the three districts would inevitably create a period of instability and would disrupt the smooth operation of the schools.

The process of consolidating the schools would be not only time consuming, but also very costly. The data collection and retention operations of the three existing districts differ considerably; consolidation would require an expensive restructuring of the data bases. An effort would also have to be made to equalize facilities throughout the consolidated district. Expenditures for new construction and physical plant improvements are never easy on a school district's budget, but they are particularly burdensome at a time when school funds are already scarce and our resources are stretched to the limit by the State's mandates to improve educational standards.

Beyond the extra costs and labor that consolidation would impose, there is the fact that something of real value would be lost to this community if the Pulaski County Special School District were dissolved. The board members, administrators, and teachers of our District have worked hard to build a modern, forward-looking school system from the poorly-funded rural district that existed fifty years ago. We feel we have made tremendous strides, both in terms of our academic offerings and of our organizational

efficiency. We have, for example, a program for the Talented and Gifted that is a model for other districts in Arkansas. We have developed a first-of-its-kind food processing plant to better serve our students' nutritional needs while saving the taxpayers' money.

These and other progressive measures have been possible only because of the confidence the community has placed in the District. That confidence has been established and maintained because of the personal contact and trust among patrons, board members, administrative staff, and teachers. Such relationships cannot be created overnight with a wave of the consolidation wand.

The existence of three separate school districts in Pulaski County has been a benefit. There is healthy competition between the districts, and we learn from each other's individual strengths. No genuine barrier prevents constructive cooperation between the districts on any matter. For its part, the Pulaski County Special School District has as its highest priority the improvement of educational opportunity for all students in our area. It is difficult to see how consolidation would further this goal.

Sincerely yours,

Bobby G. Lester
Superintendent

October 23, 1985

Courts, Civil Liberties and Administration
of Justice Subcommittee
House Committee on the Judiciary
United States House of Representatives
Washington, D.C.

Dear Mr. Chairman:

I am President of the Board of Directors of the Pulaski County Special School District. In that office, it is my sworn duty to serve the law and the people of my community. I do not believe those duties to be mutually exclusive. If the courts determine that inequities exist, it should not be necessary to do away with a lawfully-constituted school district and suspend representative government in order to deal with the problem. Consolidation is not necessary in Pulaski County, Arkansas.

We have a great school system serving my community. The Pulaski County Special School District has overcome long years of financial difficulty to build outstanding programs and modern, efficient facilities. We have done this — and maintained fiscal responsibility — notwithstanding increasing costs and diminished sources of revenue.

Our patrons take pride in the District. It is a large district — over 700 square miles — but the people regard it as their "local" school system. Patrons have given the District their financial support when it has been needed. Perhaps more important, they have given their time. Scores of parents serve on advisory committees or volunteer to help part-time in the schools. The quality of education is improving for all students because the community is involved in our schools.

Consolidation may seem to be an expedient remedy for all kinds of ills. It may seem simple to start over at the beginning and make an "ideal" system. But school systems need to be developed slowly, from the ground level (or the grass roots) up. Expediency is not always an asset.

Any problems we may have, and any we may share with other districts, are more likely to be solved if we preserve the confidence our patrons have in their local school district. That confidence is too valuable to squander. Certainly, a drastic measure such as consolidation, with its huge costs in financial and human resources, should not be imposed before alternatives have even been tried.

Sincerely,

Charles Stratton

Charles Stratton
President, Board of Directors
Pulaski County Special School District

CS/bkd

October 22, 1985

Courts, Civil Liberties and Administration of Justice

Honorable Chairman and members of the Courts, Civil Liberties and Administration of Justice subcommittee, my name is Mrs. Debbie Shamlin, an elementary school parent residing in Pulaski County Special School District (PCSSD), Arkansas. I am also the Chairperson of Parents Against Consolidation in Little Rock and I serve on the Board of Directors for the National Association for Neighborhood Schools. I am very pleased to have the opportunity to make comments concerning House Resolution 527.

While I will be expressing the very real concerns that parents in my own school district have for forced consolidation, I feel this point of view would also be shared by the majority of the parents in your own states.

Patron support for our local school district and its duly elected board of education has been overwhelming. Volunteer organizations like Booster Clubs, Parent Teacher Associations (PTA) and People Assisting Local Schools (PALS) freely give of their money, time and talents. Many commercial businesses and industries are also participating in "Adopt-a-School" programs. Such strong public support for our school district did not just happen, it has been earned by many years of hard work by school staff, parents and students.

We have successfully coped with our large size (741 square miles and 30,000 plus students) by building quality neighborhood schools and designing an efficient transportation system. We have cast off the image of a rural, backward school system, because this year students at every grade level exceeded the national average on the SRA achievement test. We have overcome a limited revenue base by over-taxing our own personal property. As parents we are proud of the quality, desegregated educational system we have developed over the years.

Also as parents we are completely familiar with our local school district, we know where our local schools are; the bus routes used to transport our children; the rules, regulations, goals, objectives and philosophy by which our schools operate; and we have confidence in the professional knowledge and leadership ability of our integrated school board, administration, teachers and support staff. We know our children are receiving a quality education, and because of this, we want to keep the district we have paid, worked and voted for intact.

However, inspite of our majority point of view a single federal district judge has ordered the forced consolidation of our school district with two adjacent districts. The result of such an order, if allowed to stand, will be the dissolution of our district and our disenfranchisement under an appointed board, the majority of which do not reside in, or pay taxes in our school district.

As parents we have real fear and concern for the education of our children in a forcibly consolidated school district. We are concerned about the safety of our children who will undoubtably be bused longer distances. The equation is simple: more time plus greater distance = increased potential for accident or mechanical failure.

We also fear that the educational process of our children will be disrupted because of assignment to older, inferior facilities, the use of different textbooks and unfamiliar teaching staff. We fear that new and different policies and regulations will foster student uncertainty and may promote personal abuse or excessive discipline problems.

It is our belief, the lack of familiarity and uncertainty coupled with the time and distance factors, will reduce the credibility of public schools with parents as well as local business and industry. The decline in membership in the

PTA's of all three school districts in Pulaski County since the federal judge has ordered forced consolidation is clear evidence of such patron concern and fear. Based on the declining PTA membership it is logical to conclude that other school programs, particularly after school activities, could expect a similar decline in parent involvement. It's been said that schools without parental and community support can not be considered public schools--this is not what we want for Pulaski County, Arkansas.

Please do not misunderstand our position. We are not opposed to desegregation, in fact we are pleased to be a part of the Pulaski County Special School District's integrated educational program. We also support a system of voluntary cooperation with our sister districts to expand integrated educational opportunities for all students. However, we are vehemently opposed to forced consolidation as a first and only remedy to provide students with integrated interdistrict opportunities.

As parents of the Pulaski County Special School District, we believe Congressman Robinson's proposed legislation (HR-527) will best serve the educational needs of America's youth and therefore solicit your support for bringing the proposed legislation to the full Committee on Judiciary for formal consideration and passage.

Respectfully,

Debbie Shamlin

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TESTIMONY ON HR 527

Submitted to the Committee on the Judiciary
Subcommittee Courts, Civil Liberties, and the
Administration of Justice

By Carol Lazenby
President, North Little Rock PTA Council

and

Madeline Johnson
Membership Chairman, North Little Rock PTA Council

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We would like to take this opportunity to thank the subcommittee for this opportunity to testify concerning Congressman Robinson's Bill, HR 527. As the President and Membership Chairman of the North Little Rock PTA Council we represent the PTA's of the following North Little Rock schools:

Amboy Elementary
Baring Cross Handicapped Center
Belwood Elementary
Boone Park Elementary
Central Junior High
Crestwood Elementary
Glenview Elementary
Indian Hills Elementary
Lakewood Elementary
Lakewood Junior High
Lynch Drive Elementary
Meadow Park Elementary
Northeast High
North Heights Elementary
Ole Main High
Park Hill Elementary
Pikeview Elementary
Pine Elementary
Redwood Elementary
Ridgeroad Junior High
Rose City Elementary
Rose City Junior High
Seventh Street Elementary
Skill Center-Annex

We are familiar with the testimony of Mrs. Gayle Wing and do not wish to be redundant. We will only state that we, and

the parents belonging to the North Little Rock PTA's, agree fully with everything Mrs. Wing said. We urge you to support HR 527.

Mrs. Carol Lazenby
President, North Little Rock
PTA Council

Mrs. Madeline Johnson
Membership Chairman, North Little
Rock PTA Council

TESTIMONY ON HR 527

Submitted to the Committee on the Judiciary
Subcommittee Courts, Civil Liberties, and the
Administration of Justice

By Gayle Wing
North Little Rock PTA Council

Mr. Chairman, distinguished members of the Committee:

Thank you for inviting me to testify in support of HR 527. As chairman of the North Little Rock PTA Council committee opposing the forced consolidation of the three school districts in Pulaski County, Arkansas, I welcome the opportunity to express my strong support of this legislation that would serve to eliminate the strife now felt here and to protect other districts across the country from suffering in the same manner.

As a parent of four children now attending the North Little Rock School District (another has recently graduated), I am deeply concerned over the impact consolidation would have on the education received by children throughout the county, but, of course, particularly in North Little Rock. The very fear of merger has already caused flight among many North Little Rock patrons to other counties and private schools.

The three school districts of Pulaski County have always been independent and, for the last fifteen years, operating under court-approved integration plans. Each district provides excellence in education for all its students. In North Little Rock, our parents have accepted and supported their court-ordered busing plan. Due to the size of our district (10,000 students and 26 square miles) and high quality of education received, the North Little Rock plan is so successful that few students are enrolled in private schools. With a 42% black and 58% white enrollment, not only are <u>all</u> schools in North Little Rock integrated and racially balanced but also no

child presently in the North Little Rock school district has ever attended a segregated school here. Parental involvement is strong in leadership, time and commitment. These same parents are deeply concerned that the merging of their 10,000 students with at least 50,000 others across 800 square miles would dilute their voice and cause the interests and needs of North Little Rock students to be lost in the shuffle. I fear that loss of North Little Rock input would create such a sense of alienation and isolation that support for public schools would markedly diminish from parents, students, businesses and the community.

A parent survey conducted by my committee in 1984 of all North Little Rock school patrons determined that 98% of those responding (about 3,000) opposed consolidation, 44% would leave the district if consolidation were implemented, and 71% would oppose a millage increase to finance a consolidated district. (Historically, North Little Rock has approved millage increases.) Even though all responses had written comments, not one had a racial overtone. A later survey indicated that 70% of blacks in North Little Rock were opposed. The main concern among North Little Rock parents, black and white, is quality of education. We are troubled that our efforts for more than a decade could be abolished. Rather than dismantling, should not we be rewarded with the right to maintain and develop an intact North Little Rock School District?

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The Arkansas State PTA Board of Managers has publicly declared "its opposition to the court ordered consolidation in Pulaski County". The Arkansas General Assembly passed a similar resolution opposing consolidation and expressing its discontent with the federal court describing the order as "ill-advised". These reactions indicate state-wide concern about the precedent of consolidation as well as for the financial costs necessary to implement it and the safety factors related to transporting children increased distances and at a great distance from their own community.

To enumerate the ten greatest concerns of North Little Rock school patrons, I offer the following:

1. The dissolving of our own elected school board. Under consolidation, those elected to serve on our school board would be replaced by appointments of the U. S. District Judge ordering consolidation until such time as a county-wide election was held.

2. The abolishment of our own district.

3. The setting of a millage rate to finance a consolidated district without a voice of the people. The judge has indicated that he will determine the rate needed to finance a consolidated district.

4. The loss of student and teacher morale. Teachers would have to face different curricula, contracts, terms, and conditions which would detract

from teaching. The same changes would adversely affect student relationships, damage school spirit and detract from student learning.

5. The creation of administrative problems. The likelihood that increased money would be spent to facilitate implementation of a consolidated district rather than on education is disturbing to the patrons who have worked long to establish strength, integrity, quality, and independence within their school district.

6. Textbook and curriculum changes would disrupt learning.

7. Traditions altered. Traditional loyalties and school rivalries would be altered.

8. Loss of local control would cause alienation from the public school system.

9. Legal fees. The massive amount already spent (over $1 million) and likely yet to be spent on legal expenses by the North Little Rock school district angers patrons and taxpayers when that same money could be used on education.

10. THERE IS NO REASON TO ASSUME THAT ALL WE WOULD STAND TO LOSE COULD BE REGAINED.

HR 527 would restore order to the process of establishing school desegregation by eliminating consolidation unless all else has been proven to fail without sacrificing any constitutional rights of equal opportunity or removing any

powers of the court. Further, it would slow the judicial process to allow the least drastic measure to be taken first. (It has been said of our case that a sledgehammer was used when a scalpel was all that was needed.) And finally HR 527 would provide that the court order of consolidation of existing school districts be a measure of last resort only, thus preventing many districts across the nation from ever facing the dilemma now before the patrons of the North Little Rock school district.

HR 527 is a solution whose time has come; it is within our grasp now to take charge and maintain our constitutional rights as well.

It has been said that Congress should not pass any bill stripping any power of the court; happily HR 527 does not. It should also be noted that likewise, citizens should not be required to support a measure such as consolidation that strips their rights as parents, taxpayers and voters.

Respectfully submitted,

Gayle Wing, Chairman
Anti-Consolidation Committee
North Little Rock PTA Council
October 18, 1985

Threats of Metropolitan Consolidation to Educational Quality

Herbert J. Walberg

University of Illinois at Chicago

Herbert J. Walberg, Research Professor of Education at the University of Illinois, was awarded a Ph.D. in educational psychology by the University of Chicago. He taught at Harvard University and has given lectures at many American universities as well as at scholarly conferences in Australia, England, Federal Republic of Germany, Israel, Japan, Holland, Singapore, and Sweden. Editor or author of more than 20 books and many articles, his main interest is educational productivity and the contribution of education to economic and social welfare. He is fellow of the American Association for the Advancement of Science, American Psychological Association, the Australian Association for Educational Research, and the Royal Statistical Society. He is currently editor of the International Journal of Educational Research.

Threats of Metropolitan Consolidation to Educational Quality

I am grateful for the opportunity to testify before this committee. Since 1960, I have been investigating the factors that make for effective education; and I have concluded that to bring about the greatest levels of learning in our American schools we must avoid the court-ordered, forced consolidation of school districts in metropolitan areas.

Since the publication of the report of the National Commission on Excellence in Education to the U.S. Secretary of Education A Nation at Risk: The Imperative for School Reform, Americans have become increasingly aware of the necessity of increasing the effectiveness of the educatonal system. School consolidation, unfortunately, is not one of those factors that will help solve the learning crisis in our schools.

Nor does mandatory transportation help our children. The courts have increasingly ordered mandatory transportation to bring about desegregation; but it has had the self-defeating consequences of white and middle-class flight from the central cities; and it has done little to promote learning. Consolidation of metropolitan areas simply to provide uniform mixtures of black and white students in schools extends this failed tragedy to a larger scale. At a time when we should be concentrating our financial and human resources most effectively on learning, mandatory transportation and district consolidation diverts energies and money from the primary purpose of education, learning.

Consolidation may not only fail to do good; it may also do harm.

Research on consolidation and related questions indicates several harmful consequences especially for minority groups. Large systems in and of themselves may be inherently unproductive; schools in New York, Chicago, and Los Angeles are well known for their unresponsiveness to parents and children, and middle-class blacks and whites are fleeing from them.

Studies that have been completed suggest that both black and white parents are against mandatory transportation simply for the purpose of desegregation. Consolidation itself, intended to provide a more uniform mix of students in a metropolitan area, is also strongly resisted. Neither parents nor school staffs want it. In practice, it appears to break down staff morale and interfere with parental involvement in schools. In addition, bringing about a uniform curriculum and educational program in formerly unique and distinctive smaller districts is an immense task that diverts resources from learning.

Fortunately, there are excellent alternatives to district consolidation and non-voluntary transportation that courts are ordering in some cities. Norfolk, Virginia, for example, is reducing mandatory transportation and instituting effective educational programs. In particular, neighborhood school programs that foster close ties between parents and teachers are being increased; and the schools are expanding programs that produce effective learning.

My purpose is to describe the research on these matters and its implications. I will describe the harms of consolidation and the benefits of alternatives.

Historical Background

In the famous Brown versus Board of Education case of Topeka, Kansas, the Supreme Court established that the segregation of black from white students living in the same neighborhoods was against the law. In the initial ruling, school boards and educators were to eliminate unlawful segregation; students could not be assigned to schools according to race but according to their residential location or other "color-blind" criteria. Segregation was to be torn away "root and branch."

All Americans can celebrate that landmark precedent. It began a series of reforms that substantially enlarged the rights of minority Americans. Who would think today that blacks would be denied the right to use public or private facilities? Long gone are the days when blacks in the South had to step to the rear of the bus, be denied a meal at a restruant, or be transported past white schools to segregated black schools.

By 1966, James S. Coleman and others showed substantial equality in facilities and other objectively measurable resources at majority-black and majority-white schools in one of the largest educational surveys ever conducted . The nation had come close to achieving the traditional goal of equality of educational opportunity.

Yet the very precedent of Brown that began this overdue recognition of human rights became twisted during the ensuing years and now threatens the education of blacks, whites, and others in America's cities. The original Brown ruling established the illegality of "separate but equal;" de jure segregation by government agencies including school boards was to be

eliminated. As Raymond Wolters' new book The Burden of Brown makes clear, this precedent was extended by subsequent decisions of lower federal courts to de facto segregation--a far different matter. De facto segregation refers to the freely chosen and obvious tendency for blacks and whites to live in separate neighborhoods.

The dubious psychological theory behind the subsequent court rulings and orders was that black children could not learn in school with one another but must be intermingled with whites in order to learn. There was hardly a shred of evidence for what seems oddly to be a white supremacist view; and subsequent research proved inconclusive. Whatever the plausibility of the theory or the inconclusiveness of the research, however, courts have, until recently, ordered mandatory desegregation plans in many cities of the United States. In some cases, such as Boston and Los Angeles, the litigation has run into millions of dollars and gone on for more than a decade. The actual financial cost of the plans and their operations, of course, was far greater.

It has yet to be made clear what Brown required. Neither the courts nor the National Academy of Education, a honorary group of senior educational scholars, could decide. On the twenty-fifth anniversary of the Brown decision, the Academy report declared:

> "Did Brown mean some form of mandated desegregation? Or did it mean the right of parents to choose which schools their children would attend? On this issue, the Panel Contributors are divided" (p. 8).

As to the impacts of the Brown decision on education, the Academy Panel also remained divided but noted several harmful effects: white flight, and the diversion of attention from the quality of black schools. The Panel Contributors, moreover, were also "divided as to whether desegregation policies have in fact had a beneficial effect on the scholastic achievement of black children" (p. 17).

Whatever the uncertainty of the effects, courts have often imposed a kind of quota system upon local school districts; typically judges ruled that every school in an entire district had to be within a small percentage range from the total percentage of whites in the district. Following a tradition of a century or more, of course, most cities were racially and ethnically concentrated, that is, blacks, Hispanics, and various other ethnic groups lived by choice in their own neighborhoods. Far beyond what Brown required, the elimination of de facto segregation called for massive cross-town transportation of students and elaborate changes in the administration and operation of schools.

Powerful middle-class whites in most cities were usually able to force black rather than white students to ride the buses. Even so, "white flight," or movement of whites to private schools and suburban districts began even before the plans were enacted. Perhaps some flight was attributable to private racism, but polls showed from the start that whites were generally against mandatory transportation simply for the purpose of eliminating de facto neighborhood segregation. The main reason seems to be that such a social experiment seemed neither to promise nor to deliver better education

for black or white children.

Blacks were divided on the question in the beginning; and some of those against it may have been unable to afford the cost of flight. Later polls showed that more and more blacks and finally the majority were against school racial quotas and the mandatory transportation that went along with them. As blacks became more prosperous on average during the past few decades, more moved to suburban communities. In large cities such as Chicago, substantial numbers of middle-class blacks sent their children to private schools; although most were old-line Protestants, they most often sent their children to Catholic schools.

Thus, white flight became middle class flight of both whites and blacks. Part of the reason for it, of course, was the attractiveness of suburban amenities and private schools. But much of it seemed to be the arbitrariness of the court orders, the disruption of city school systems, and the failure to improve education. Whatever the mixture of reasons, city districts in which courts mandated massive desegregation plans lost substantial numbers of white and black middle-class students. The effect was not only to concentrate the poor, both whites and blacks, but also to leave urban schools without middle-class advocates, usually the most effective and influential spokespersons.

It has not been clear to the courts why parents, especially black parents whose children are most often burdened with transportation to distant schools, object to mandatory plans and why they evade them if they can. One of the few studies of this question shows some of the practical, non-

racist reasons why mandatory city-wide or metropolitan-wide desegregation plans cause special burdens on poor blacks.

The Fort Wayne Study

A group of inner-city black parents, in Fort Wayne, were upset with a threatened closing of their schools for desegregation purposes and the likelihood that their children would have to be transported to more modern but distant white schools in the periphery of the city. Through their attorney, they asked me to survey parents of the entire inner-city area. Interviews with the parents showed that the black parents did not perceive white schools as superior to their own neighborhood schools and were fearful of practical problems such as the loss of the educational continuity and social ties with teachers in their local schools. Their children, moreover, would not be able to go to school with their friends; they would not be able to participate in after-school activities, and the mothers felt that they would undergo needless transportation, and that they would not be able to conveniently pick them up if they got sick at school since few mothers had cars. They also feared for their children's safety in traffic and discomfort in cold and rainy weather.

Based on the study of parents, the school board withdrew the plan to close the local black schools and proposed another plan to satisfy the court. The survey seemed decisive: it, along with other evidence, showed that parents, both black and white, have serious and legitimate objections to elaborate social experiments that have little promise of improving education. Yet this is precisely what mandatory transportation and consolidation suits

are all about--expanding school district boundaries so that an arbitrary quota of races can be attained. Whatever social values such efforts have, they have little educational value and are likely to cause the kinds of harms that black parents feared in Fort Wayne.

Surprisingly to some, black and white resistance to transportation and mandatory transfers was no change from previous trends in the United States. As indicated above, national polls for decades had indicated that the vast majority of whites were against transfers simply for the purposes of racial mixing and that blacks were about evenly divided but that the percentages of blacks objecting were growing. But few surveys actually looked at the reasons for the objections, and, on those few occasions where this was done, the common sense, practical reasons that were given had nothing to do with race.

They also accorded well with what prominent, black scholars such as William Sampson, William Julius Wilson, and Thomas Sowell have been saying about black learning. Among other things Sampson of Northwestern and Sowell of Stanford have in particular said that it may be a racist and white supremacist view that a black child must sit next to a white child to learn. And, William Julius Wilson of the University of Chicago in his book, The Declining Significance of Race, published a few years ago has argued that what counts among sociological factors in learning is social class not race. In other words, it is far more critical to have a doctor or lawyer as a parent than one of a particular race.

Educational psychologists, for the most part agree, and would go a step

further. Neither race nor even the social status of parents nor the race of the child in the next seat is as critical to learning as is the quality of education and study. Such non-controversial psychological factors are not only plausible but scientifically proven in scores of studies; and they can be readily altered by educators and cooperating parents.

Grant School Project

Evaluation of the Grant School project in Chicago's West Side indicates the importance of the home in learning. The Grant School study evaluated a home-enrichment program developed in a completely segregated black school in one of the most economically-depressed, crime-ridden areas of the inner-city. The superintendent of the school district signed along with the parents, teachers, the principal, and the child a pledge for each child on what all these people would do. Mainly it was to increase homework, get parents into the school, and to work with their children on educationally-stimulating activities at home, promote school staff and parents educational pride and achievement, and the like. They organized book exchange fairs and regular intensive parent-teacher conferences including teacher visits to children's homes.

The study of the program showed that the children gained one year grade-equivalent in reading during the year. This amounts to normal middle-class progress, in contrast to that in previous years and in similar inner-city schools which ordinarily gain only about a fraction of a year.

Other studies have shown similar results. To assess research on elementary school-based programs for increasing the educationally-

stimulating qualities of the home environment, Graue and others obtained the learning outcomes from controlled studies, found in standard references indexed for the period 1970 though 1980. Of the 121 comparisons in the 29 studies, 109 or 91.1 percent showed that the students in these programs performed better than control groups which did not have the benefit of the programs.

The Distinctiveness of American School Districts

In completing several works, I have come to see the unique traditional qualities of American school districts. Some years ago, the U.S. Department of State and the Voice of America (Office of the President) asked me to plan and coordinate a world-wide series of radio broadcasts on unique qualities of American education that was later published and distributed in 73 countries. The main point of the book was the importance of the local school district in the governance of American education.

For foreign educators, it had to be explained that the United States is nearly unique in this respect. The Constitution, of course, makes no mention of education and leaves it to the states, which in turn leave a great deal of autonomy to local districts. Unlike nearly all other countries in the rest of the world which have centralized ministries that impose educational policies, the American tradition has been to rely on participation and control by citizens in local communities. Local school boards are thus highly diverse. They have their distinctive policies and practices that make them different from even adjacent boards.

Nonetheless, desegregation cases seeking the consolidation of several

school districts are arising with increasing frequency: Atlanta, Kansas City, Milwaukee, St. Louis, Little Rock, Benton Harbor (Michigan), Wilmington (Delaware) and Goldsboro (North Carolina) all have been or are enmeshed in consolidation suits. In several cases, for example, Benton Harbor, and St. Louis, the courts have fortunately taken on the moderate course of allowing voluntary transfers either within city districts or across districts. Sometimes "magnet schools" with specialized courses of study are incorporated into to metropolitan plans to serve as inducements for majority to minority transfers. In this way, blacks and whites have the chance to participate or to send their children to their neighborhood school; but it remains a matter of choice rather than compulsion.

As polls have shown, many blacks, when given the choice, have elected to send their children to neighborhood schools rather than having them engage in long-distance transportation schemes. The majority black school board in Norfolk, Virginia, for example, abandoned a mandatory plan which had caused considerable white and black middle-class flight. With federal district court approval, they substituted a voluntary plan that enabled greater black and white parental participation in neighborhood schools with the likelihood of raising their effectiveness of their children's' learning.

Desegregation and Achievement

Underlying the recent rash of consolidation suits across the country is an apparent belief that the educational achievement of minority students can be improved by sending them to a white school. Racially-identifiable schools are seen as inherently inferior, and white or racially mixed schools

are seen as superior. Hardly a shred of consistent evidence supports this contention.

The most rigorous synthesis of studies of studies of effects of desegregation on black achievement shows no conclusive proof of consistent benefits. The National Institute of Education (1984) commissioned me and six scholars to look into the question. From the many published and unpublished reports, we selected the 19 most rigorous and used statistical methods to synthesize their results. The overall estimate suggested that the modal effect was in a range of plus or minus 0.05 from zero. This means that on balance desegregation sometimes has slight positive effects on black achievement, but sometimes slight negative effects; and its average effect is nil or near nil.

Positive effects were more often noted in reading than in mathematics, and in voluntary rather than mandatory programs, but the results are ambiguous. Even the results on reading achievement were insignificantly different from zero. And the superior results of voluntary programs may be attributable to the superiority of blacks who entered the program at the beginning rather than the actual effects of desegregation.

St. Louis Litigation

In view of the questionable benefits to the learning of black students, white and middle-class, and the well-known disruption of mandatory desegregation plans, it is surprising that consolidation and mandatory transportation plans are still being put forward in some parts of the country while cities in other places are abandoning them. St. Louis offers a

instructive example of what is being proposed and in this case rejected.

Although the court had yet to determine liability of the county districts surrounding the City of St. Louis, an expert who had played the major role in the Boston desegregation set forth a consolidation plan which declared that (to quote, p. 3) "few practicalities such as tunnels and mountains would stand in the way." "Scope is the fundamental and prevailing feature of the remedy" the plan further declared but it urged the most extreme remedies upon the county districts--their dissolution, consolidation and massive mandatory transportation of their former students.

The Boston expert admitted there that smaller units of government are more highly rated by citizens, and that large units often produce citizen apathy and feelings of isolation. He further admitted that citizens had already voted down metropolitan government in the St. Louis area.

This expert also admitted he had little data on physical facilities; but he called for the imposition of a uniform grade structure and curriculum on 25 to-be-dissolved County districts. At a time when legislation is proposed in Illinois to split the Chicago public schools into 20 or so autonomous districts of manageable size, the expert proposed to merge more than that number.

He also admitted to major educational difficulties, violence, and resistance to metropolitan plans in Wilmington and Louisville. He anticipated not only security and picketing problems but called for photographic identification to be carried by all students and "a large, well-staffed security unit."

Fortunately, a more reasonable course was followed in the court order.

Cooperative agreements between suburban and City boards were instituted; voluntary majority to minority transfers within the City and across district lines were encouraged, and the State allocated extra funds to St. Louis schools to implement educational programs that increase learning.

Little Rock Consolidation Litigation

A recent study I conducted showed the value of local governance and administration of schools and the dangers of metropolitan consolidation. In the area of Little Rock, a heated controversy over desegregation had developed which eventually led to a lawsuit involving City of Little Rock, the adjoining city of North Little Rock, and surrounding County of Pulaski--each of which had separate and distinctive school systems, with desegregation plans long accepted by the courts. I investigated the educational programs in the three districts involved, and also participated in designing a telephone survey of 1720 parents with children in schools in the three districts.

The most important quality I found in the districts was a strong sense of pride and accomplishment in what had been accomplished for their students as individuals rather than for two identifiable groups of blacks and whites. That is not to say that their programs were superior; they were simply home-grown or home-chosen. They employed quite distinct curricula, textbooks, instructional methods, pay scales for teachers, and administrative organization,

For example, the gifted program, the special education program, the discipline programs, and curricula in North Little Rock had mainly been

locally developed in conformity with national, state, and research guidelines and requirements; but the staff and teachers had obviously worked out the many various documents and procedures themselves. Because they had invested years of intense effort in developing their programs, they had a strong sense of psychological ownership of the programs.

They had obviously invested considerable committee effort to make the difficult choice on what is best for the children of their district. The materials for these programs, for example, had to be selected carefully to meet program goals. Money and effort had gone into purchasing the right textbooks; and staff members had to be trained to use them effectively.

The most important assets, however, were the human costs of learning to work together and informing parents and students on how the programs work, learning to trust fellow workers in the individual schools, and, developing teamwork between principals and central office staff. These things take leadership and effective teamwork among all those concerned including parents and community members.

Staff Demoralization

Distinctive programs were also to be found in the Pulaski County district. The staff pride in their programs and accomplishments as team members, committed to complex and unique curricula worked out in their district. They had the same dread and foreboding about an externally-imposed plan of consolidation and mandatory desegregation as observed in North Little Rock. Also, the fear and uncertainty about losing programs and shared colleagueship and good relations with parents and students in

their communities was prevalent.

From my studies in Little Rock and elsewhere, I concluded that the staffs of school districts facing consolidation have pervasive feelings of apprehension and uncertainty. They face the unpredictability of a possible consolidation, the destruction of programs of they have worked to develop and improve, and the dissolution of team morale and community and parent relations that would be brought about by an externally imposed mandate.

Parental Opinion

What had generally been ignored in previous consolidation litigation was the objective study of community opinion. Analyses of the responses to the telephone interview survey disclosed that only 23 percent of the black parents of Little Rock--presumably the main beneficiaries of consolidation--supported it. Of black families in all three districts, only 20 percent favored a consolidation, and 70 percent opposed it. Even larger fractions of whites in the three districts opposed consolidation.

The irony of the contested Little Rock consolidation was the judge ignored the educational evidence, burdens on black families and children, and public opinion; he ordered consolidation of the three districts. The order, however, is on appeal; and it can be hoped that it will be overturned.

Little Rock Consolidation Plan

The consolidation plan offered in Little Rock is hardly unique; it is typical of consolidation orders in proposed other parts of the country. In a day, when more and more people are seeing the wisdom of increasing home-school ties to increase achievement, providing parental choice of schools to

increase incentives for integration, preserving the strengths of local control of education, and spending human energies on education and learning, the author of the rejected consolidation plan in St. Louis proposed to consolidate the three districts in the Little Rock area.

Although consultation and community input is the key to the success for a desegregation plan, no such input was sought. The proposed consolidation plan would result in having the black children, some 95 percent of the total, bearing nearly all the Little Rock transportation burden. The plan proposed millions of miles of extra transportation that would waste the time and risk the safety of children and contribute to traffic congestion of the area. Also included were rigid quotas on whites and blacks for all curricular and extra-curricular activities.

The principal author of the plan had declared in St. Louis, "we do not pose as curriculum specialists or planners." Yet the Little Rock plan proposed to mandate a uniform curriculum and grade structure in both places. The plan omitted music and science from the early grades. The proposed curriculum was in non-compliance with State of Arkansas requirements and contrary to nearly any elementary curriculum in the U.S.

The plan ignored the costs of new textbooks and other curriculum materials that would be required for an entirely new curriculum, staff training, and so on. The plan overlooked the difficulty and long hours of committee work to coordinate district and grade levels goals, and to adopt, adapt, or create materials and textbooks,

Ordinarily, school staff only do a major revision of one subject and

level at a time such as junior high school science. They then have to coordinate the revised curriculum with what comes in earlier and later grades and with the other subjects. Teachers have to be trained to use the new materials and methods. Even granting that a uniform curriculum might be ordered for the three districts, or that outsiders might choose for them, it is a far more substantial task to get disenfranchised communities and dispirited staff to carry out such an educational program.

Moreover, the children in the schools were friendly with one another, had shared learning together, and know their teachers, principals, and customs of their schools. They had adapted to the rather complex curricula developed in North Little Rock and Pulaski County. Consolidation, of course, would certainly destroy these peer relations and their skills in learning from materials and procedures designed for them.

Middle Class Flight

In addition, the Little Rock plan, like other consolidation plans, ignores middle-class flight. This refers to the flight of middle class people, both black and white, from large, inefficient urban systems of education. It is related to white flight but may be more serious.

No one has convincingly shown that voluntary or mandatory desegregation does anything constructive for learning. Parents obviously allow transportation out of necessity or to get their children to a clearly better school but not simply for a sociological experiment. Now that exhaustive efforts to show constructive learning effects of desegregation have shown no such effects, there is still less reason for them to allow it.

The disturbing additional problem is that middle-class people, black and white, have the knowledge, social networks, and money to escape to outlying areas or private schools. They are quicker than the black and white poor to get their children into private schools and into the best of the public schools.

This means that increasingly urban districts or individual schools lose their middle-class, educationally-constructive climate as well as their most articulate spokespeople for improving and maintaining educational standards. It means that poor whites and poor blacks are concentrated in poor schools. And, as Wilson has said, social class is much more significant for success than race. Mandatory busing and consolidation merely accelerate these processes.

Home-School Ties

The plan further ignored middle-class flight and further proposed the involuntary increased distancing of parents and homes from teachers and schools--a separation of the two chief agents of education. Syntheses of research on learning show that academic stimulation in the home, which school staff and parents working together can alter, is much more powerful than race and even social class in determining the amount of learning.

About 87 percent of the student's waking hours in the first 18 years of life are spent in the home; only about 13 percent are spent in school. Thus, any comprehensive and successful educational program to increase learning or reduce the black-white achievement gap must actually intervene in the educative environments where children spend the greatest fraction of their

time--the home and nearby community. This becomes harder to do, not easier, when the distance between residence and school is increased.

Programs such as Grant School project that was discussed earlier have an outstanding track record in improving learning. Mandatory long-distance transportation and consolidation plans such as that proposed for Little Rock make such programs difficult to plan and conduct.

Children's Time

The "Chicago human-capital school" that holds to the position that human life and time are valuable is especially applicable. Children's time should be considered as a valuable resource to be invested for their own benefit as well as that of their community and nation. The human-capital school holds that we can ordinarily expect people to act rationally in their own interests which includes as well their family's and community's interests. If we think people are acting irrationally, we may have failed to consider the full costs and benefits of their decisions from their own perspective.

Now applying these views to consolidation cases such as Little Rock, one cannot accept that the vast majority of whites and half the blacks in the U. S. who are against mandatory busing simply for the purposes of desegregation are racists who are irrationally perpetuating discrimination. To the contrary, they have rationally concluded that there is little benefit and great costs involved in implementing arbitrary and educationally-needless transportation quotas.

Parents value their own children's time and see it as a valuable resource.

Other citizens who may not have children in school may also see little use in unnecessary transportation. They may lose confidence and deny additional money to school systems that put their resources into such controversial and unproductive uses.

To illustrate the parent's and child's viewpoint, let us assume that mandatory consolidation and transportation plans, such as that proposed for Little Rock, requires an hour as opposed to 20 minutes of total transportation per day for some children. That means 20 minutes in extra time in each direction or an extra 40 minutes of transportation per day.

Thus, 40 minutes of extra transportation seems a reasonable, perhaps conservative, figure at least for purposes of illustration, although many other assumptions can be plugged into formulating the child's schedule. A representative parent can multiply the extra 40 minutes by 180 days per school year and by 12 years of schooling to arrive at an estimate of 1,440 hours of extra transportation over the child's school career. It would amount to 36 full-time 40-hour weeks of bus riding. This extra transportation time amounts to 1 and 1/3 years of 30-hour weeks of schooling.

Even this figure may also be hard to think about. So let us consider foregone opportunities that would have to be sacrificed for the increased transportation time: 1,440 hours may be sufficient time to raise oneself from a "B" to an "A" student. American students do little homework; an extra 40 minutes five times a week appears to have three times the effect of social class on learning. Alternatively, 1,440 hours may be sufficient time to learn

a foreign language to a level that very few native Americans master; or to become a ranking amateur ball, chess, or cello player; or to learn ballet to a fairly competent level by national standards.

In short, consolidation plans seem to have ignored these human time costs and their educational and psychological implications; but parents are likely to think of them. Blacks and whites in the Little Rock area and around the country are hardly racists for considering the full costs and improbable benefits of the unnecessary transportation inherent in consolidation efforts.

Other Problems with Consolidation

Participation is not only a right but an incentive for the productive work of people in organizations. Members of institutions are likely to give more of their creativity and energies to organizations and programs in which they are able to play an active role in decision making. In a review of 40 years of research on school boards and educational administration, Thomas James (1982) called attention to the importance of citizen participation in determining the affairs of local schools:

> "The form of these arrangements is of less consequence than the need that the board's functions be a matter of continuing public concern. No form of democratic government permissible under our social contracts is likely to serve an apathetic people well over an extended period of time. On the other hand, any of the myriad forms for managing schools can function reasonably well so long as substantial numbers of interested and responsible

citizens are willing to inform themselves and engage in the task of making them work" (p. 80).

As Maehr, Hartman, and Bartz note, people in smaller districts can participate more directly in the affairs of their schools. They can inform themselves more directly about candidates and exercise a more decisive influence on school board elections. They can more easily speak to central-office staff about specific problems their children may be having. Consolidation is likely, of course, to make the central office more physically and psychologically distant.

Perhaps more important, as noted by Maehr and others, parents can speak more easily with principals and teachers when the family is closely allied to the school.

> "there are many avenues by which parents can influence and cooperate with the school in the rearing of their children. In many respects the so-called neighborhood school carries with it an important possibility for encouraging participation of parents and therewith a great potential for making the school, in effect, an extension of the home. Not surprisingly, then, parents often react strongly to any threat of interference in the parent-school relationship. Drastically changing school attendance patterns, busing children into alien communities, and breaking up neighborhood schools against the will of parents are often seen in this light" (p. 308).

In addition, consolidation of districts can have special harms to black

families and communities aside from those already discussed. Rodgers (1975) conducted a set of case studies of school consolidation and desegregation on previously all-black communities in North Carolina. He found that black parents lost their cordial and informal relations with school staff. Black principals with high status in the community often became assistant principals and lost their power in the school and status in the community. Black-owned commercial establishments could no longer compete effectively for school business. It is also obvious that black votes and influence in small black communities moving toward metropolitan schools will often be diluted in school board elections, bond issues, and educational policies.

Improving Minority Group Learning

The question of minority learning not only concerns minority children but also the economic vitality and welfare of the nation as a whole. What Adam Smith held two centuries ago is now more valid than ever: the wealth of nations depends on the abilities and knowledge of their people. Moreover, the original Greek meaning of economics, "household management," encourages unsentimental and unflinching thought about family and educational investments in children's development.

Human Capital and Minority Learning

In Nobel Prize-winning research, for example, Theodore W. Schultz of the University of Chicago showed that investments in education yield economic returns for the nation and for individuals that compare favorably with investments in financial and physical capital. Educational experiences

in the home, in the school, and in the community promote the acquisistion of knowledge and foster the capacity to preserve and profit from further experience.

Even considering earnings lost during the school and college years, investments in people--or "human capital"--increase not only occupational prestige and lifetime earnings, but also health, longevity, civic participation, and general happiness. Tough-minded economists who are concerned about allocating scarce resources to competing purposes think of education as an investment rather than as consumption or a childhood romance with learning. Educators and parents could benefit from adopting this perspective in their joint pursuit of goals for students and of the most efficient means for attaining them.

Minority group education has been mishandled for too long; but we now know which solutions are ineffective and which ones work. The two main myths contributing to the mishandling of minority group education are heredity, that is, the unfounded belief that learning is associated with genetic background, and desegregation, that is, the misconception that mixing black and white is necessary for black students to learn.

As noted above, the general consensus of several studies under the auspices of the National Institute of Education (NIE) concerning desegregation indicate that school desegregation does not appear to be a significant factor promoting the size or consistency on the learning effects of black students. In addition, the mere mixing of students, white and black, is clearly not a panacea for improved education. Many factors

influence the success of such a program. Therefore, the question of desegregation isn't, "Is desegregation, per se, the best policy for improving minority education?" but a question concerning the factors associated with it: homework, amount of instruction, and other factors. Given the empirical failure of desegregation, the other factors relating to learning clearly become more significant.

Since my primary concern is educational productivity, I have been conducting research on learning in schools and compiling that of others to determine what educational factors are most effective in promoting learning. With the support of of the National Institute of Education and the National Science Foundation, I collected research of the 1970's on the productive factors in learning: student age, ability, and motivation; the amount and quality of instruction; the mass media especially television; and the psychological environments of the home, classroom, and peer group (see attached paper). Next, quantitative syntheses of all available studies of productive factors were conducted; syntheses of nearly 3,000 investigations--summarized below--were compiled. Case studies of Japanese and American classes were carried out to compare educational productivity in the two countries.

The productive factors were further probed for their significance in promoting learning in three large sets of statistical data on elementary and high school students--the National Assessment of Educational Progress, High School and Beyond, and the International Study of Educational Achievement. Finally, large-scale studies were made of the most effective

ways of assisting educators to bring about constructive changes in schools.

Collectively, the results of the various studies suggest that the three groups of previously-defined nine factors are powerful and consistent in influencing learning. Syntheses of studies suggest that these factors are the chief influences on cognitive, affective, and behavioral learning. Many aspects of these factors can be altered or influenced by educators.

The essential factors appear to substitute, compensate, or trade-off for one another at diminishing rates of return. Immense quantities of time, for example, may be required for a moderate amount of learning if motivation, ability, or instructional quality is minimal. Thus, no single essential factor overwhelms the others; all are important.

Although the other factors are consistent correlates of academic learning, they may directly supplement as well as indirectly influence the essential classroom factors. In either case, the powerful influences of out-of-school factors, especially the home environment, must be considered. Initially, however, concentration on the factors irrelevant to minority group learning are in order.

Two factors not easily affected by educators are the student's willingness to persevere in learning, or motivation, and the intellectual ability of the student. If a child refuses learn, there is little effect of increasing the quality of instruction. Parental interventions can solve this problem.

Ability as a factor in improved achievement is not easily affected. Ability is generally constant; unlike motivation which can, under certain

circumstances, be influenced. Concentration on other variables effecting minority group education thus becomes justified. Motivation, for example, can be influenced and changed. Asking a child from day to day how she or he is doing and what was learned in school on a particular day is an example of helpful parental intervention.

There are several factors influencing the quality of instruction: reinforcement, acceleration programs, reading training, cooperative-team learning, and personalized and adaptive instruction. Despite being one of the most influential factors effecting minority group education, increasing the quality of education is also one of the easiest to solve. The examples cited below are all examples of specific improvements that can be made under the general category of "quality of instruction."

Reinforcement is merely a positive response from the teacher when a correct answer is given by the student. This is probably the most significant factor affecting the quality of instruction because of its psychological impact on the student. Under this concept, the teacher asks a question relatively low in difficulty. When the student correctly answers the question approval is given by the teacher and the difficulty of the questions gradually increases. This system increases the confidence of the student through positive thinking and provides a psychological boost by showing the other members of the class how competent she or he is.

Another method of improving education, acceleration programs, provides advanced activities to elementary and high school blacks and whites with outstanding test scores. Once the higher achievers have been

identified, materials that are suited to their level of ability are utilized. Likewise, the lower achievers will also have been identified, and appropriate actions to remedy their deficiencies could be used. This could indirectly increase the amount of attention given to students in minorities because of their evaluated handicap.

Reading training, which ranks third in its instructional impact on learning, refers to programs that coach learners in adjusting reading speed and techniques to achieve specific purposes such as skimming, comprehension, and finding answers to questions. This is also a major obstacle to minority group learning. By improving reading scores alone, a significant achievement will have resulted.

Cooperative-team learning, in which some autonomy over the means and pace of learning is delegated to students who help each other in small groups, has substantial weight in educational productivity. Contrary to popular belief, having a teacher lecture to a classroom all day is not only inefficient but boring. Cooperative-team learning provides the student with a first hand experience at learning and teaches the invaluable lessons of working in groups.

Sometimes referred to as "the Keller Plan," personalized and adaptive instruction techniques also have strong effects. Similar to cooperative-team learning, personalized instruction focuses attention on the individual student by eliminating lectures and recitations but guiding each student by entry tests and written lessons plus individual help. Adaptive instruction uses similar techniques plus work in small groups and differentiated staffing to

increase learning. These techniques improve the learning environment through an increase in individual attention. Lectures may lead students to inattentiveness. With personalized adaptive instruction, the personal individual problems can be solved with a teacher answering questions the students may have. Combined with cooperative learning and the other factors mentioned, this can significantly improve educational productivity for minority groups.

Tutoring and lesson prescriptions based on diagnosed individual needs are similar ways to adapt instruction to learners rather than batch-processing them. These related methods may attain their success by helping students to concentrate on the specific goals they individually need to achieve, or by freeing them from the pervasive seatwork and recitation in groups that may suit only the middle third of the students. As in personalized adaptive instruction, more individual attention is stressed.

High teacher expectations for student performance also have shown an effect, on average, as do advance organizers, which are "cognitive maps" showing the relationship of material to be learned in a lesson to concepts learned in previous lessons. In other words, basing new lessons on material learned in the past to serve as a review of old material and to provide the foundation for learning with something that the student is familiar with. Not only does this provide effective review of past material but also increases the confidence of the student through reinforcement.

An obvious but neglected factor in achievement is homework--the amount, quality, and usefulness of which is determined by staff, parents,

and students. Homework as a tool for learning is invaluable when executed correctly. The fifteen empirical studies of homework conducted since 1900 indicate that the assignment and grading of work done at home produces an effect on achievement that is three times as large as family socioeconomic status (as measured by income, education, and occupation). Homework produces positive effects on conceptual, critical, and the attitudinal aspects of learning.

Unfortunately, data collected on nearly 58,000 high school students, a study called High School and Beyond, indicate that during the school year, average American students spend four hours per week on homework and a distressing thirty hours per week watching television (Walberg and Shanahan, 1983). Obviously a change in attitude and priority are in order. Students would benefit from less television viewing combined with more time on homework or other constructive pursuits.

Many factors affecting minority education should be considered. Compilations of educational and psychological research in ordinary schools, however, indicate that improving the quality of instruction, increasing parental help of their children, and raising the standards and time for instruction and homework can vastly improve educational achievement.

Conclusion

As Tyack (1974) concluded from his historical studies of urban school systems, "If the record of educational reform in city schools is in some respects a discouraging one, it is perhaps because the schools have been asked to do too much or because inadequate solutions were implicit in

simplistic definitions of what constituted the problems" (p. 8). The extensions of Brown to eliminate neighborhood concentrations of blacks and whites seem to have been too much for schools to accomplish. White and middle-class flight simply produces more extensive racial and class concentrations; and little evidence suggests mandatory transportation and consolidation have raised black learning. Forced consolidation, in particular, appears to have a great number of harms to students, particularly minority students.

Schools would do better to adhere to their fundamental purpose--learning. As the eminent black educator, W.E.B. Du Bois, expressed in a 1935 address to the National Education Association:

> "Whenever a teachers' convention gets together and tries to find out how it can cure the ills of society there is simply one answer: the school has but one way to cure the ills of society and that is by making men intelligent. To make men intelligent, the school has again but one way, and that is, first and last, to teach them to read, write, and count. And if the school fails to do that, and tries beyond that to do something for which a school is not adapted, it not only fails its own function, but it fails in all other attempted functions. Because no school as such can organize industry or settle the matter of wage and income, can found homes or furnish parents, can establish justice or make a civilized world" (quoted in Ravitch, p. 80)

The original 1954 Brown case of Topeka, Kansas has been re-opened.

One young black lawyer representing the plaintiffs said that the quality of education has declined in the intervening years despite desegregation. Another lawyer for plaintiffs believed that "before desegregation black teachers identified with their community and its schools and were more likely to go out of their way to assist black students" (quoted in Wolters, p. 268).

Linda Brown, for whom the original case was named, now has her own daughters and has recently reflected on her experiences. She was originally opposed to being bused past a white school to a black school, and simply wanted to go to school with black and white children in her neighborhood. She remains opposed:

> "My kids would be playing with one group and going to school with another, and it'd start all over again. There's got to be a better way to do it."
>
> "I don't want my kids bused. I know what that's like. One of the reasons I went to court back in the 1950s was to escape busing and all the hassle it causes. Kids like me were taken out of our neighborhoods and bused across town. I still feel kids should be able to attend schools in their own neighborhoods." (quoted in Wolters, p. 270)

Education, in sum, draws on scarce resources including both money and human time and energy. Programs that increase learning and that are acceptable to blacks and whites are the ones that are worth our best efforts.

Consolidation and the mandatory transportation that it requires provides nothing benefical and causes direct and indirect harms. It disrupts communities and diminishes their support for education. It drains resources that could be used for programs of demonstrated effectiveness; and it wastes the time of parents, students, and teachers.

We can no longer afford the educational cost of using our schools for social experiments, particularly those that have failed. We must concentrate resources on education programs that have demonstrated their effectiveness. Consolidation carries a price we can ill afford. H.R. 527 will stop it.

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